

# MINERALS MANAGEMENT SERVICE

The following list summarizes and paraphrases authorities that may be useful to the Minerals Management Service (MMS) in forming partnership arrangements with the public and private sector. Should a particular authority appear helpful, the reader should review the actual text of the statute to ensure that no additional limitations or qualifications exist that may affect MMS's ability to use the authority. Also Part D of the Primer begins with a list of Department-level and government-wide partnership authorities that may be consulted.

The Solicitor's Office can help the agency determine the most appropriate way to use these authorities to accomplish its partnership goals. Consultation with the Solicitor's Office early in the initial partnership planning and discussion stages will help facilitate effective, and legally supportable, achievement of those goals

Various sections of the Outer Continental Shelf Lands Act, the Federal Oil and Gas Royalty Management Act, and others laws establish authorities for MMS to partner with other entities, particularly States. These include:

## **A. OUTER CONTINENTAL SHELF LANDS ACT (OCSLA)**

- 1. Congressional Policy of Cooperation with States and Local Governments (43 U.S.C. §§1332(4)(c) and 1334(a)):**  
In OCSLA, Congress declared it to be national policy that coastal States and, through such States, affected local governments are entitled to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf. OCSLA provides expressly that in administering its provisions, the Interior Secretary shall cooperate with relevant departments and agencies of affected States in the enforcement of safety, environmental, and conservation laws.
- 2. General Cooperative Agreement Authority (43 U.S.C. 1345(e)):** OCSLA authorizes the Interior Secretary to enter into cooperative agreements with affected States for purposes which are consistent with OCSLA. Such agreements may include, but need not be limited to, the sharing of information (in accordance with 43 U.S.C. 1352), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

3. **Oil and Gas Information Program (43 U.S.C. §1352):** OCSLA establishes an oil and gas information program under specified procedures. **Section 1352(b)(2)** requires the Secretary to make data summaries available to affected States and certain affected local governments. Section 1352(d) involves the transmittal of other information to affected States.
4. **Performance of Environmental Studies (43 U.S.C. §1346(c):** OCSLA requires the Secretary to plan and carry out her duties under section 1346 relating to environmental impact and other studies in full cooperation with affected States. **Section 1346(c)** authorizes the Secretary to utilize information obtained from any State or local government or any person for purposes of section 1346. For purposes of carrying out her responsibilities under that section, the Secretary may utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.
5. **Common Hydrocarbon-Bearing Areas (43 U.S.C. §§1337(g)(3) and 1334(j)(2)):** With regard to the leasing of lands within three miles of seaward boundaries of coastal States, OCSLA authorizes the Secretary and a Governor of a coastal State to enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. OCSLA also directs the Secretary to prevent the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying a Federal and State boundary through the cooperative development of the area.
6. **Agreements for Shore Protection, Beach Restoration, and Coastal Wetlands Restoration (43 U.S.C. §1337(k)(2)):** OCSLA authorizes the Secretary to negotiate an agreement with any person for the use of Outer Continental Shelf sand, gravel, or shell resources for use for shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency. The Secretary may assess a fee based on an assessment of the value of the resources and the public interest served, except that no fee shall be assessed directly or indirectly against a Federal, State, or local agency.
7. **Agreements for Onsite Inspection of Facilities (43 U.S.C. §1348(c)):** OCSLA provides that the Interior Secretary and the Secretary of the Department in which the Coast Guard is operating may agree with regard to onsite inspections of facilities on the outer Continental Shelf.

## **B. FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT (FOGRMA)**

- 1. Federal and Indian Lands Oil or Gas Royalty Cooperative Agreements (30 U.S.C. §1732(a)):** FOGRMA authorizes the Interior Secretary to enter into cooperative agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities and vehicle inspection activities.
- 2. Delegations of Royalty Functions to States (30 U.S.C. §1735):** FOGRMA authorizes the Secretary to delegate to a State royalty inspection, audit, and investigative and other royalty-related responsibilities with respect to Federal lands within the State.

## **C. OTHER LAWS**

- 1. Agreements to Resolve Jurisdictional Controversies (43 U.S.C. §1336):** This provision authorizes the Secretary, with the concurrence of the U.S. Attorney General, to enter into an agreement with a State, its political subdivision, or a grantee or lessee thereof, to resolve a controversy over whether lands are subject to OCSLA.
- 2. Agreements Related to Fair Market Rental Value of Deep Water Port Facilities (33 U.S.C. §1501ff, as amended by Pub. L. No. 107-295):** The Deepwater Port Act of 1974, as amended by the Maritime Transportation Security Act of 2002, authorizes the Secretary to determine annual fair market rental value of the subsoil and seabed of the outer Continental Shelf utilized by deepwater ports, and to enter into agreements with the U.S. Coast Guard in matters relating to such determinations.
- 3. Rigs to Reefs Program (30 CFR Part 1700):** Through its platform decommissioning regulations, MMS enables oil or gas operators to participate in the artificial reef program established under Title II of the National Fishing Enhancement Act of 1984 (Pub. L. No. 98-623), as implemented by the National Marine Fisheries Service National Artificial Reef Plan (NOAA Technical Memorandum NMFS OF-6, November, 1985, as amended).
- 4. Additional Cooperative Agreement Authority:** Public Law 101-121, the Department of the Interior Appropriations Act for FY90, appropriates funds the MMS may expend on cooperative agreements. Public Law 104-134, the Department of the Interior Appropriations Act for FY 1996, appropriates funds that the MMS may expend for matching grants or cooperative agreements in the fields of mineral leasing and environmental studies. 110 Stat. 1321-166 (April

16, 1996). Public Law 102-134, the Department of the Interior Appropriations Act for FY 92, gives the Secretary authority to enter into cooperative agreements with states and tribes to share information on royalty management. 105 Stat. 1001 (Nov. 13, 1991).

5. **Funding of Research Agreements (43 U.S.C. §1471f):** This law provides authority for the Department to use its own appropriations and any received from other Federal agencies to incrementally fund research projects that may last more than one fiscal year, using work orders under cooperative agreements with colleges and universities, State agencies, and non-profit organizations.
6. **Gift Authority (43 U.S.C. §1473; Pub. L. No. 99-591):** This law provides authority for the MMS to accept “land, buildings, equipment and other contributions, from public and private sources, which shall be available for purposes provided for in this account.”
7. **Tax Deductions for Conservation Easements (26 U.S.C. 170):** The U.S. Tax Code allows taxpayers to take a deduction for a “qualified property interest” contributed to a charitable organization (including the MMS), exclusively for conservation purposes protected in perpetuity. [26 U.S.C. 170 is not a DOI or MMS authority *per se*; rather it authorizes a tax deduction by the donor, provided that DOI or a bureau agrees to accept a property donation.]
8. **Acceptance of Contributions to Prosecute Cooperative Projects (43 U.S.C. §1473a, Pub. L. No. 102-154):** This law provides authority for the Secretary to accept land, buildings, equipment and other contributions and fees, and to use them to prosecute projects in cooperation with other federal, State, or private agencies.
9. **Acceptance of Volunteer Services:** A yearly line item in the Department of the Interior appropriations acts (for example, Pub. L. No. 105-83; 111 Stat. 1553 (1998)) has authorized the MMS to expend funds for the promotion of volunteer beach and marine clean up activities. The inclusion of such a provision should be checked in the appropriations act for the particular year in question before relying upon this law for partnership purposes.
10. **Payment of Costs Incidental to Services Contributed by Volunteers (43 U.S.C. § 1473c):** This law provides authority for the Secretary to pay costs incidental to the utilization of services contributed by individual volunteers in aid of Departmental work.

- 11. Methane Hydrate Research and Development Program (Pub. L. No. 106-193):** The Methane Hydrate Research and Development Act of 2000 authorizes appropriations for the establishment of a methane hydrate research and development program within the Department of Energy (DOE). DOE is directed to carry out this program in consultation with U.S. Navy, USGS, Minerals Management Service, and the National Science Foundation through grants, contracts, and cooperative agreements with universities and industrial enterprises. The purpose is to study the use of methane hydrate as an energy source. This Act sunsets the methane hydrate research and development program at the end of FY 2005.